

Section 313.837 Report on Competitiveness

Introduction

Section 313.837, RSMo, requires the Commission to report annually to the General Assembly “the status of the competitiveness of Missouri excursion gambling boats when compared to the gaming tax rate of adjoining states and the effects of the loss limits imposed by subdivision (3) of Section 313.805, RSMo, on the competitiveness of the gaming industry in Missouri.” The Commission issued its first comprehensive report on this issue to you in 1996.¹ The report informed you that the loss limit made Missouri riverboat casinos less attractive to patrons and had the effect of driving Missouri residents to gaming facilities in neighboring jurisdictions. It resulted in fewer customers and lower rates of customer spending.

For six consecutive years, the supporting data has not changed. Meanwhile, each year when the Commission issues its report, some chastise the Commission by erroneously claiming it is seeking repeal of the loss limit. The Commission faces this criticism even though each report clearly states that it is fulfilling its statutory obligation to report to you on the effect of the loss limit on competitiveness.

As the following analysis indicates, once again the data shows the loss limit renders Missouri riverboat casinos less competitive than their neighbors without loss limits. This finding should be neither surprising nor controversial. Thus, it appears clear the time has come to repeal the requirement to report on this subject in future annual reports. The Commission asks that you consider such legislation. It would be more helpful to request a study to determine whether the loss limit has any effect on problem gamblers. To date, no one has presented any evidence that the loss limit deters people from becoming problem gamblers. Some hypothesize the loss limit acts as a braking mechanism to slow the losses of problem gamblers. Either subject seems a more useful topic for research and discussion than the loss limit’s effect on competitiveness, an issue that is clearly settled.



Competitive Impact of Missouri’s Gaming Tax Rate

The gaming tax rates imposed on riverboat gaming operations in Missouri have not changed since the first licenses were issued in May 1994. Missouri law imposes an 18% tax on the adjusted gross receipts (AGR) of riverboat gaming operators.² In addition, a local tax of 2% on AGR is collected by the state and distributed to each home dock city or county.³

The statute also imposes an admission fee on the operators of excursion gambling boats in the amount of two dollars (\$2) per patron, per excursion, which is split between the home dock community and the state.⁴ Furthermore, pursuant to Section 313.824, RSMo, excursion gambling boat operators are charged for the costs of gaming agents who are assigned to the riverboats with the responsibility of protecting the public. While the cost of Commission agents varies with each operation, the average annual cost is approximately \$597,000 per gaming facility. These costs are important in determining the effective gaming tax rate.

¹ Prior to 1996, there was insufficient data to provide any meaningful commentary on the effect of the loss limit on competitiveness.

² Adjusted gross receipts are defined by Section 313.800, RSMo, as “the gross receipts from licensed gambling games and devices less the winnings paid to wagerers.” In other words, the amount the casino “wins” from patrons. It is often referred to as “casino win”. The tax on AGR is set forth in Section 313.822, RSMo.

³ Section 313.822, RSMo.

⁴ Section 313.820, RSMo.

Effective Gaming Tax Rate

States that have legalized gaming have devised a variety of different taxes, fees and assessments that apply to casino operators. In addition, varying regulatory policies have a significant impact on the amount of revenue a casino generates. In order to compare the effects of such policy decisions, industry analysts and those who research public policy issues related to gaming have devised a simple formula to compare the public costs paid by gaming operators in various states. Commonly referred to as the “effective tax rate,” the formula is simply the total of all gaming taxes, fees and assessments as a percentage of gross revenue.⁵

The effective tax rate is a helpful tool on at least two levels. First, it consolidates into one number all gaming taxes, fees and assessments that casino operators are required to pay. These expenses are typically separated in public report tables and it becomes difficult to evaluate the total costs being paid by a casino operator in order to maintain the privilege of being licensed. In addition, assessments against a licensee for various regulatory activities are often not reflected in the revenue reports that are distributed by the states.⁶ However, these costs can be significant and must be considered in evaluating the effect of taxes and regulations on the economic impact of gaming.

The effective tax rate is instructive in comparing the impact of varying state regulatory schemes on gaming revenues. When regulations limit the amount of revenue a gaming facility can generate, it will be reflected in the effective tax rate. Naturally, there are some instances, such as the \$500 loss limit in Missouri or the betting limits in Colorado or South Dakota, where the policy objective is intended to reduce revenue. In such cases, the effective tax rate is a useful tool in analyzing the cost of those policy objectives.

The effective tax rate is also a good indicator for evaluating many ramifications of tax policy. For instance, a good case can be made that graduated tax rates on gross casino revenue act as a deterrent to capital investment. When a company decides to commit additional capital to a casino property, it naturally expects to generate additional revenue to earn a reasonable return on its investment. However, if tax rates are graduated up, the casino company must consider the fact that any new injection of capital must generate substantially higher returns than existing capital in order to cover the cost of the higher tax rate. The higher taxes will be reflected in the company’s effective tax rate. While other market forces such as the quality of the operation, access to the property and demographics must be considered, the effective tax rate provides a good base comparison of state regulatory schemes.

The Competitiveness of the Missouri Tax Rate

Historically, Missouri has consistently been one of the two or three states with the highest gaming tax rates. While Missouri is still considered a high tax state, Illinois recently enacted a very large tax increase that clearly sets it apart as the state with the highest tax rate. In 2002, Illinois raised the rates of its graduated tax as shown on the following page.

⁵ The formula only includes taxes and fees that are unique to the gaming industry. Therefore, such things as state income or sales tax are not included.

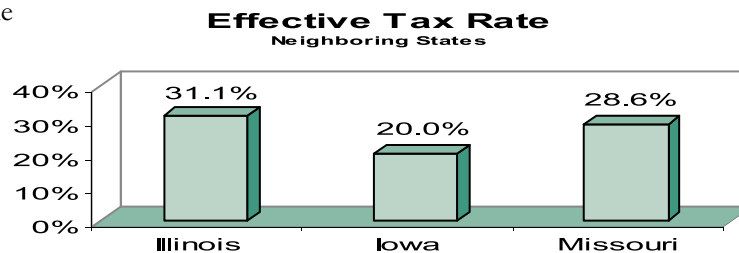
⁶ For instance, Section 313.824, RSMo. requires that the riverboat gambling operators reimburse the Commission for the full cost of the staff necessary to protect the public. Last year this resulted in an average annual cost of \$597,000 per gaming facility. However, these costs are not included in the revenue report issued by the Commission.

Tax Bracket (AGR)	Previous Rate	New Rate
Less than \$25 million	15%	15%
\$25-\$50 million	20%	22.5%
\$50-\$75 million	25%	27.5%
\$75-\$100 million	30%	32.5%
\$100-\$150 million	35%	37.5%
\$150-\$200 million	35%	45%
Greater than \$200 million	35%	50%

The current tax structure in Missouri has identifiable advantages over Illinois' graduated system. Because gaming taxes in both states are based on gross revenue, the tax rates do not take into account risk or profitability. Missouri's flat tax assesses each operator at the same rate regardless of the amount of capital invested (risk) or the degree of financial success (profitability). In contrast, Illinois' graduated tax rate gives preference to those operators who have invested small amounts of capital in the state, thus placing less at risk, while similarly ignoring whether the operation is profitable. Thus, in Illinois it is possible that the most profitable operations in the state might be contributing the least to the state's economy through capital investment, jobs and taxes because they are being taxed at the lowest rate – a “reward” for investing less than their competitors.

In contrast to Illinois, Missouri's flat tax on adjusted gross receipts is more conducive to larger capital investments, thus producing more attractive facilities with more non-gaming amenities. More importantly, Missouri's tax rate does not punish operators for reinvesting. As mentioned in last year's annual report, Missouri operators have reinvested 59% of their operating cash flow back into their facilities.⁷ An operator invests new capital into a facility expecting to realize an increase in revenues. In Illinois, operators who reinvest will be rewarded with a higher tax rate. The Commission views this as ill-advised economic policy that should not be adopted in this state.

Missouri continues to rank in the top tier in terms of effective gaming tax rates. It is possible that a modest increase in the tax rate may be able to be absorbed by the industry without adverse economic consequences to Missouri, if it is accompanied by other policy changes that allow gaming operators to be more consumer-friendly, such as the elimination of the loss limit. However, any large tax increases like those enacted recently in Illinois and Indiana are likely to have negative long-term economic effects on the state of Missouri. It will deter capital investment, cost jobs, and in the final analysis, is likely to result in less gaming tax revenue because operations will shrink in order to more efficiently bear the costs of the increased pre-expense tax burden.⁸



⁷ Missouri Gaming Commission Annual Report for FY 2001, page 28.

⁸ In formulating gaming tax policy, it is important to remember that these rather unique taxes are paid prior to determining whether the business is profitable. Admission fees and gross receipts taxes are “first priority” expenses and must be paid before the gaming operator pays its employees, debt service, utilities, suppliers, etc. Thus, when a gaming company is operating at a net loss, it still incurs significant tax liability.

Effect of the Loss Limit on Competitiveness

Missouri operators continue to be at a competitive disadvantage when compared with gaming operators in neighboring states with no loss limits. The disadvantage continues despite expansion efforts and new property developments, which have produced facilities that are larger, provide superior comfort and more non-gaming amenities than their competitors in other states. For the eighth consecutive year, the data clearly shows that the loss limit reduced customer counts and gaming revenue. The inconvenience of the loss limit results in the export of Missouri gaming customers to other states and the loss of potential gaming revenue from local gamers and tourists.

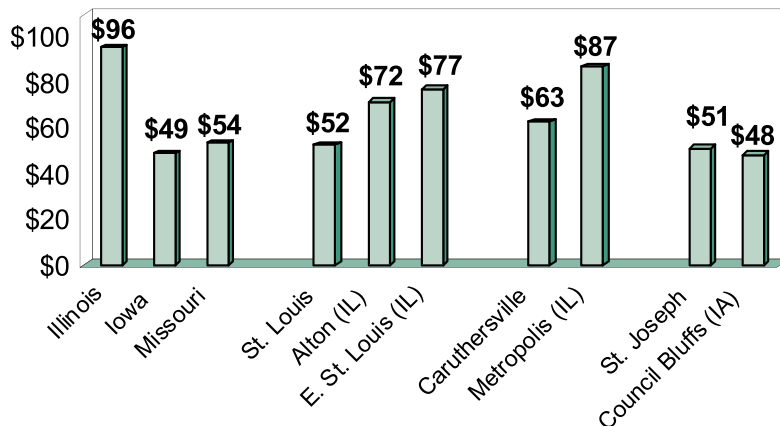
This proposition is supported not only by the chart below, but also by the fact that Illinois riverboats are capturing a larger market share than that state's population base represents. Missouri residents account for 77% of the St. Louis metropolitan area population base.⁹ However, Missouri casinos in the St. Louis metropolitan area capture only 65% of the gaming revenue market. This equates to an inequity of \$93 million in relation to gaming revenue and \$27 million in state and local taxes per year. It should be noted the inequity has decreased over the last year, likely due to improvements at the Missouri casinos.

The Commission has spent thousands of hours working to improve enforcement of the loss limit. The Commission has and will continue to vigorously enforce the loss limit. The Commission has fined casinos \$839,200 for loss limit violations. Please note the above findings are intended to satisfy the Commission's statutory mandate to report annually to the General Assembly on the effects of the loss limit on the competitiveness of the gaming industry in Missouri. The enactment of any changes in policy as a result of these findings are obviously the purview of the General Assembly and the Governor.

⁹ U.S. Census Bureau, Census 2000.



Win Per Patron*
Missouri vs. Competing Jurisdictions



* Win Per Patron (WPP) is the amount the casino wins, on average, from each patron.